

Remarks

As requested by the Examiner, Applicant hereby confirms its election to prosecute the embodiments of the invention set forth in original Claims 13-34. Claims 1-12 are withdrawn.

The embodiments of Applicant's invention are directed to a bandcast tobacco sheet which has particular utility as a means for modifying the burn rate of a cigarette and/or providing a flavoring compound to a cigarette or other smoking articles.

The Examiner has rejected Claims 23 to 32 under 35 U.S.C. § 102(b), over *Bandel*. It should be noted that the *Bandel* sheet material is disclosed for use as a binder or wrapper for cigars, as an outside wrapper for cigarettes or as a shredded filler in pipes, cigarettes and cigars. There is no teaching or suggestion that it has applicability as a burn rate modifier in partial inner wrap strip form for a cigarette, or as a carrier for a flavorant such as menthol, in partial inner wrap strip form, for cigarettes. In fact there is no teaching or suggestion for adding any kind of flavorant to the sheet material of *Bandel*. At column 6, lines 47-48, it is clearly stated that an advantage of the *Bandel* material is that it "retains the qualities of natural tobacco leaf such as aroma, flavor and color", which is a teaching away from the use of the material as a flavorant additive.

Moreover, the specific compositions of Applicant's embodiments are substantially distinguished from those of *Bandel*. The Examiner states that Example Four of *Bandel* comprises 63.5% tobacco. This is far removed from Applicant's embodiments of compositions of about 15 to 40% by weight of tobacco. In fact *Bandel* varies by 48.5% from Applicant's embodiments at the low end of Applicant's tobacco range, and by 23.5% at the high end. The Examiner also states that it is "understood" that *Bandel* provides a tobacco

paper comprised of about 15-40% tobacco, but fails to explicitly point out how and where that understanding is taught or suggested by *Bandel*. In addition, the Examiner states that *Bandel* teaches a ratio of tobacco to binder agent of approximately 4:1. That again is far removed from Applicant's ratio of about 1.0 to 1.0.

The Examiner has rejected Claims 13 to 22, 24, 25, 32 and 33 under 35 U.S.C. § 103(a) over *Crooks* in view of *Bandel*. The deficiencies of *Bandel* as a reference for the composition of bandcast material used for the partial inner wrap strips of Applicant's embodiments has been discussed above.

Referring to the *Crooks* reference, Applicant's structure of its burn rate modified cigarette embodiments distinguishes from *Crooks* in several significant respects. In Applicant's embodiments the partial inner wrap strips are positioned away from the seam of the outer wrap of the cigarette.

In *Crooks*, there is no teaching or suggestion of such a structure. In fact, in one specific embodiment of *Crooks*, an extra wide overlap at the seam area of the outer wrap of the cigarette functions as the two paper layer of the *Crooks* invention (column 4, lines 16-20). In another embodiment of *Crooks* the overlap at the seam area is combined with another adhered strip (column 4, lines 30-34). Accordingly, *Crooks*, specifically teaches away from the cigarette embodiments of the invention.

Additionally, there is no teaching or suggestion in *Crooks* of putting a flavorant such as menthol into the partial inner wrap strips themselves as a way of adding flavorant to the cigarette. *Crooks* merely reiterates the familiar techniques of adding flavorants by means of casings or top dressings applied to the cigarette filler, which refers to the cut tobacco which is

then formed into the cigarette rod. There has been no prior art cited which teaches or suggests the addition of flavorants to a smoking article by means of strips of partial inner wrap, and clearly there has been no prior art cited which teaches or suggests the use of partial inner wrap strips to provide the combination of burn rate modification and the addition of flavorants to a smoking article.

It is therefore submitted that one skilled in the art of cigarette design would not be directed or otherwise motivated to arrive at the claimed invention, nor would the skilled artisan find it obvious to arrive at the claimed invention, given the teachings of the references cited.

Accordingly, in view of the Amendment and the arguments and comments provided in support thereof, it is submitted that this Application is in condition for allowance, and such action is respectfully requested.

The Examiner is further requested to telephone the undersigned Attorney if there are any remaining issues.

Respectfully submitted,

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Date: June 5, 2007